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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/792,139

03/03/2004

Charles P. Schultz

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MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
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EXAMINER

WEBER, CHRISTOPHER STEVEN

ART UNIT

PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/792,139

Applicant(s)

SCHULTZ, CHARLES P.

Examiner

Christopher S. Weber

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-10,12-16 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-10,12-16 and 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is in response to amendment filed on December 16th, 2005. Applicant amends claims 1, 9 and 16; cancels claims 5, 11, and 17; and responds to claim rejections. Claims 1-4, 6-10, 12-16, and 18-21 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-4, 6-10, 12-16, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puskala US Patent 6,908,389 in view of Weisman et al. US 2004/0047461 (Hereinafter "Weisman").

4. Regarding at least claims 1 and 9, Puskala teaches a device (and method thereto) for facilitating a multiplayer game using a plurality of wireless devices that are connected via a wireless network, comprising: an input interface for receiving a request

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to transfer information with at least one other wireless device during the multiplayer game (Figs.5A-6; 6:1-27), the information being at least one of text, audio, and image information (3:18-32); a game framework component for determining whether the requested transfer is permitted according to a set of predefined rules for the multiplayer game (2:10-62); and a communication interface for transferring the information with the at least one other wireless device via a wireless network only if it is determined that the predefined rules permit the requested transfer (2:10-22); determining whether at least one of the wireless devices is operated by a participant or non-participant, whether a second wireless device is operated by a participant or a non participant, and determining whether the transfer is permitted according to the predefined rules as the apply to participants and non-participants. (11:12-58).

5. Regarding at least claim 16, Puskala teaches a server (game platform 40, Fig. 1) for facilitating a multiplayer game over a wireless network (6:45-63), the server comprising: an input interface for receiving a request to transfer information between at least two wireless devices (10, 20) during the multiplayer game, the information being at least one of text, audio, and image information (3:18-32; 7:16-49); a game framework component for determining whether the requested transfer is permitted according to a set of predefined rules for the multiplayer game (5:1-57); and a communication interface for transferring the information between the at least two wireless devices via a wireless network only if it is determined that the predefined rules permit the requested transfer (2:10-22; 6:45-63); determining whether at least one of the wireless devices is operated by a participant or non-participant, whether a second wireless device is operated by a

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participant or a non participant, and determining whether the transfer is permitted according to the predefined rules as they apply to participants and non-participants. (11:12-58).

6. Regarding claims 1, 9 and 16, Puskala teaches non participants, but does not explicitly teach non-participant viewers. Weisman teaches a wireless conference game that utilizes the concept of non-participant viewers (0085 – listen only participants, Paragraphs 139-142). It would be obvious to one of ordinary skill in the art at the time of the invention to combine the concept of non-participant viewers as taught by Weisman with the wireless game taught by Puskala in order to allow participants to communicate more effectively with non-participants who are currently in the chat room (Puskala 11:26-58), it would also allow for one to be a non-participant viewer before they join a gaming community (Weisman) or chat room, similar to community (Puskala).

7. Referring to claims 2 and 10, Puskala teaches the at least two wireless devices are mobile telephones and the wireless network is a mobile telephone network (Fig. 1; 4:37-59).

8. Referring to claims 14 and 21, wherein a rule interface for sponsoring the multiplayer game by providing the set of predefined rules to the other wireless device (claim 14); and the game framework component determines the outcome of the game based at least partially on the predefined rules (claim 21); these limitations are inherent from the games played by the wireless devices such as checkers or action games which are based on predetermined rules (7:51-6:43; 10:14-64).

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9. Referring to claims 3, 4, 6, 12-14, 18, 20 and 21, Puskala teaches each of the at least two wireless devices is operated by a participant of the multiplayer game (2:3- 22); at least some of the plurality of wireless devices are operated by participants that are divided into a plurality of teams, and in the determining step, the determination is based at least partially on whether the at least two wireless devices are operated by participants on the same team or participants on different teams (11:12-58); sponsoring the multiplayer game by providing the set of predefined rules; storage for storing the set of predefined rules (2:23-46).

10. Regarding claims 7, 8, 15 and 19, Puskala does not explicitly teach sending a notification to at least one of the at least two wireless devices, if it is determined that the predetermined rules do not permit the requested transfer (claim 7); and the multiplayer game is a multiplayer reality game and the information is a live image or live video (claims 8, 15, and 19). Weisman et al., however, teaches a system and method for wireless conference/game wherein the participants can view each other live via the wireless devices (paragraphs 139-142). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide the continuous wireless live video streaming method of Weisman et al. to the multiplayer gaming system of Puskala to provide uninterrupted live view of the players and enhance reality to the interactive gaming environment thus attract more players to the mobile gaming network.

11. Referring to the limitation of claim 7, wherein sending a notification to at least one of the at least two wireless devices, if it is determined that the predetermined rules do

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not permit the requested transfer; the examiner hereby take an Official notice that it is obvious in video gaming to inform the players of noncompliant game commands or requests to enhance user friendly interface.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Response to Arguments

12. Applicant's arguments, see Remarks, Paragraph 2, Last Line, filed December 16th, 2005, with respect to the rejection(s) of claim(s) 1-4, 6-10, 12-16, and 18-21 under 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Weisman et al.

13. Applicant notes that Puskala teaches sending messages to all participants, all on same team, and all enemies. Puskala additionally teaches sending messages to any group including non participants or non-participant viewers as taught in combination with Weisman et al. (Puskala 11:12-58, Specifically 50-58)

Citation of pertinent prior art

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Yamashita et al. US Patent 6,755,743: This invention teaches a messaging service for a computer tournament system. The system works between players as well as non-participant spectators. The invention teaches a server system as well as a portable component.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Weber whose telephone number is 571-272-3064. The examiner can normally be reached on Monday - Friday 7am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CSW

Ronald Hanson
Primary Examiner
3/2/07